IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE SIDE

WRIT PETITION NO. 4296 OF 2005

Office Notes, Office Memoranda of Coram, appearances, Court's orders or directions and Registrar's orders.

Court's or Judge's orders

Mr.S.M.Sabrad, for the petitioner
Mrs. J.S.Pawar, AGP for respondents 1 to 4.

CORAM : F.I. REBELLO &
DR.D.Y.CHANDRACHUD, JJ.
DATED : 13TH SEPTEMBER, 2005

P.C.

. Rule. Heard forthwith. The respondent No.2 had directed the Divisional Railway Manager (Works) Central Railway, Solapur to deposit an amount of Rs.2,01,525/- to extract 1000 brass of sand. The petitioner is successful bidder from Divisional Railway Manager (Works), Central Railway, Solapur. The petitioner deposited the said amount on 5th May, 2005. Inspite of the deposit no order was issued in favour of the petitioner for the Divisional Railway Manager (Works), Central Railway, Solapur to extract 1000 brass of sand. On this failure the petitioner approached this Court.

. On behalf of the respondent

State the learned AGP has produced an order dated 1st September, 2005 issued to the petitioner permitting him to extract only 700 brass of sand. It is the case of the petitioner that would not be in terms of the directions issued by respondent No.2 vide order dated 7th April, 2005. According to the petitioner the petitioner has deposited the entire cost of 1000 brass of sand and accordingly either the respondents should pass an additional order for additional 300 brass of sand or refund prorata from the amount deposited for 300 brass of sand.

2. Considering the arguments the contentions urged by the petitioner have to be considered. If in terms of demand made a sum of Rs.2,01,525/- was the entire value for extracting 1000 brass of sand the petitioner should either be given an additional 300 brass of sand or be given refund prorata for 300 brass of sand in terms of the value for the sand as per the contract. In the light of that the petition can be disposed of by issuing the following orders:-

(i) The respondents are directed to issue to the petitioner additional order for extracting 300 brass of sand if

permissible within a period of four weeks

from today.

(ii) If within such period no order is issued the respondents are directed to refund on a prorata basis for 300 brass of sand in terms of the price claimed by the respondents for 100 brass within a period of two weeks thereafter.

(iii) Rule made absolute accordingly.

No order as to costs.

(F.I. REBELLO, J.)

(DR. **D.Y.CHANDRACHUD, J)**